

United States Senate

WASHINGTON, DC 20510

February 17, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Dear Administrator Pruitt:

We write to request a 120-day extension of the 60-day public review and comment period currently established by the U.S. Environmental Protection Agency (EPA) for its proposed rule, "Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry," which was published in the Federal Register on Jan. 11, 2017 (82 FR 3388). This additional time will provide state agencies, local governments, and other affected stakeholders an opportunity to thoroughly examine the contents of this proposal and provide the agency constructive comments.

This proposed rule is a far reaching proposal that will have significant impacts on the mining industry as well as other natural resources industry sectors including chemical manufacturing, oil and gas, and electric utilities. The EPA's Regulatory Impact Analysis estimates that the "financial responsibility amount for the regulated industry is \$7.1 billion." According to its own data, the proposed rule will require hardrock mining companies to incur up to \$171 million per year in new financial assurance costs, while only saving the government \$15.5 million per year. It is our understanding that the affected industries' estimates put the cost of this new federal program even higher. In short, cost of compliance will discourage domestic mineral production and lead to significant job losses in the hard rock mining sector.

The current 60-day comment period, which ends on March 13, 2017, is woefully inadequate to review, evaluate, and prepare meaningful public comments on this complex rulemaking. When the proposed rule was first printed in the Federal Register, it spanned 124 pages and was dwarfed by technical supporting documents and relevant materials that the EPA has cross-referenced as part of the index to the docket. As of the date of this letter, there are now more than 2,300 supporting documents exceeding 323,969 pages, more than half of which were added after the original publication. To make matters worse, key tools that are intended to help affected stakeholders determine the impact of the proposed rule and estimate financial responsibility obligations were not made publicly available by the agency until just recently.

It is important to note that the agency only established a 60-day public comment period for this proposal, a limited window typically afforded to noncontroversial proposals on revisions to existing programs. This proposal is classified as a Tier 1 rule, reserved for the most important and complex rules, and establishes

an entirely new federal regulatory program. Given these facts, it is clear an extension of the public review and comment period is necessary.

Thank you for your prompt consideration of this request. Please do not hesitate to contact our offices if we can be of further assistance.

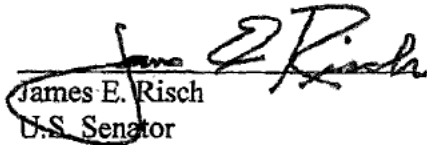
Sincerely,



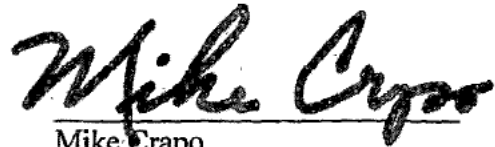
Dean Heller
U.S. Senator



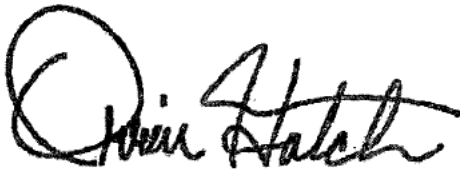
Lisa Murkowski
U.S. Senator



James E. Risch
U.S. Senator



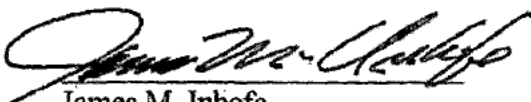
Mike Crapo
U.S. Senator



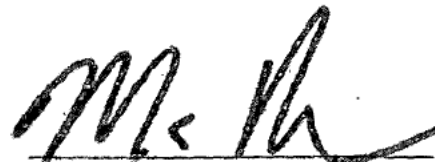
Orrin Hatch
U.S. Senator



Dan Sullivan
U.S. Senator



James M. Inhofe
U.S. Senator



Marco Rubio
U.S. Senator



Steve Daines
U.S. Senator



Michael S. Lee
U.S. Senator



Cory Gardner
U.S. Senator

cc: Mr. Donald Benton, White House Liaison, U.S. Environmental Protection Agency

ANN WAGNER

2ND DISTRICT, MISSOURI

435 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-1621

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Congress of the United States
House of Representatives
Washington, DC 20515-2502

COMMITTEE ON
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SUBCOMMITTEE ON ASIA AND THE PACIFIC

February 17, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

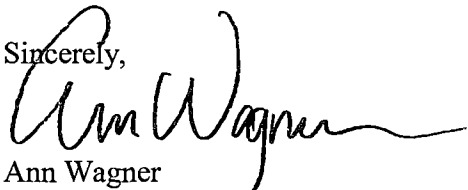
Dear Administrator Pruitt,

I write to you today regarding a matter of great importance to my district and my constituents. The West Lake Landfill is an inactive landfill that contains radiologically impacted material (RIM) and has been on the National Priorities List since 1990. Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the EPA has jurisdiction over the site. Located adjacent to the West Lake Landfill is the Bridgeton Landfill, where a subsurface smoldering event (SSE) is currently ongoing. My constituents and the entire St. Louis region have waited decades for the EPA to remediate this site, while living with both uncertainty and fear. Last year, the EPA announced that a Record of Decision (ROD) would be forthcoming by the end of 2016, yet the EPA failed to meet its own self-imposed deadline. After yet another delay by the EPA, the community is left with more questions than answers regarding eventual remediation.

Just Moms STL is a community group founded by Dawn Chapman and Karen Nickel that advocates for a safe and permanent solution to the West Lake site. Dawn and Karen have traveled to Washington, D.C. many times to meet with their elected representatives and made multiple attempts to meet with former EPA Administrator Gina McCarthy. Unfortunately, Administrator McCarthy refused to meet with these community leaders during much of her tenure, only agreeing to a very short meeting during the waning days of the Obama Administration. The voices of Just Moms STL should be fully heard at the highest level of the EPA, and I respectfully request you meet with Dawn and Karen in the immediate future to allow them to share the impact of the EPA's inaction on the community and to discuss the EPA's future plans for remediation.

Thank you for your consideration.

Sincerely,



Ann Wagner
Member of Congress

United States Senate

WASHINGTON, DC 20510

February 17, 2017

The Honorable E. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Mr. Pruitt:

We write today to express our willingness to work with you and the Environmental Protection Agency (EPA) to grow our country's economy and support American jobs. Thank you for all of the answers you provided to us and our colleagues over the course of your confirmation process in the Senate. We are anxious to support you in your efforts to remove harmful and unnecessary regulations that serve as barriers to economic growth and effective environmental protection.

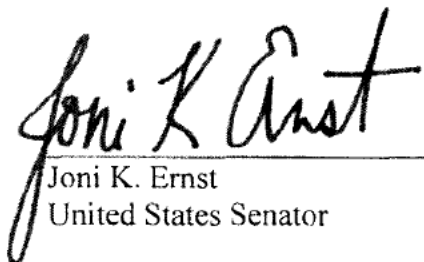
One such barrier we would like to highlight is a nonsensical regulation that makes it more difficult to sell gasoline with ethanol content above ten percent during the summer months. The Clean Air Act (CAA) limits the volatility of gasoline, as measured by Reid Vapor Pressure (RVP), to nine pounds per square inch (psi) from June 1 – September 15. In 1989, the EPA adopted an interim 1-psi RVP “waiver” for gasoline blends containing ten percent ethanol (E10), and this waiver was later codified through amendments to the Clean Air Act in 1990.

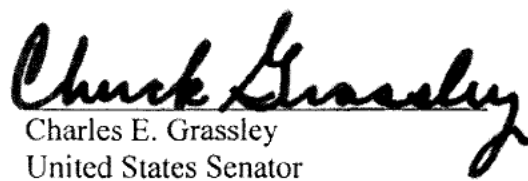
Despite repeated requests, the EPA has refused to grant this same 1-psi waiver to gasoline blends that contain more than ten percent ethanol, such as E15. As a result, sales of E15 in most of the country are severely restricted between June 1 and September 15 – the peak summer driving season. Retailers are forced to find specially tailored low-RVP gasoline blendstock to make E15 in the summertime, or avoid selling the fuel altogether. Neither of these options are practical or economical for most retailers and their customers.

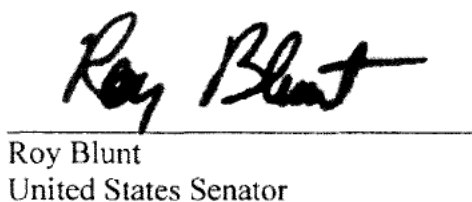
Ironically, the volatility of E15 and other higher blends is actually lower than that of E10, meaning there is a slight evaporative emissions benefit associated with replacing a gallon of E10 with a gallon of E15. Unfortunately, without the waiver being extended, this archaic policy prevents E15 from enjoying the same treatment year round, discouraging retailers from installing infrastructure to distribute these fuel alternatives, and ultimately increasing costs for consumers.

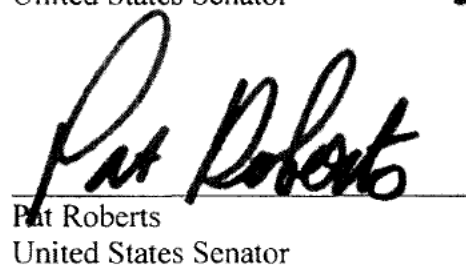
We ask that you extend the 1-psi RVP waiver to E15 and higher blends, to eliminate this needless obstacle to consumer choice. We look forward to working with you to find a permanent solution to this issue.

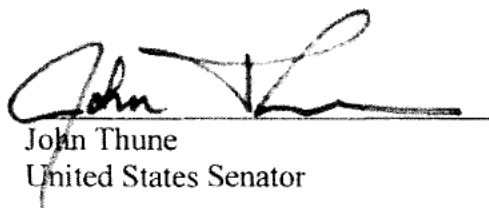
Sincerely,


Joni K. Ernst
United States Senator


Charles E. Grassley
United States Senator


Roy Blunt
United States Senator


Pat Roberts
United States Senator


John Thune
United States Senator

Mims, Kathy

From: Fins, Eric <Eric.Fins@mail.house.gov>
Sent: Wednesday, February 22, 2017 10:19 AM
To: OCIRmail
Cc: Clemons, Nick
Subject: Message from Rep. Kennedy's Office
Attachments: Taunton Est Group ltr to Pruitt 2-9-17.pdf; Att 1 - EPA FOIA Reply on Sentinel Method - 12-24-2014.pdf; Att 2 - EPA Response to CCR Letter RE Renewed Request for SAB Review - R....pdf; Att 3 - Howes Letter on Taunton River 5-1-15.pdf; Att 1a contd EPA-HQ-2015-000462 - Sentinel Method Follow-up Reply (1-6-2....pdf

We received this information from the city of Taunton, Massachusetts, a city in my boss's district. We were asked to forward to Administrator Pruitt's attention. Thank you for the consideration.

Eric

Eric S. Fins
Senior Legislative Assistant
Office of Congressman Joseph P. Kennedy, III
434 Cannon House Office Building | Washington, DC 20515

***Please note our change in office address. We are now in 434 Cannon.*

202-225-5931
Kennedy.house.gov

To sign up for Congressman Kennedy's eNewsletter, please [click here](#).

Taunton Estuary Municipal Coalition

February 9, 2017

Via Email and First Class US Mail

Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Request for Peer Review of EPA Region 1's Unprecedented Use of the Sentinel Method to Impose Stringent Nitrogen Limitations

Dear Administrator Pruitt:

On behalf of the major cities discharging to the Taunton Estuary (Taunton and Fall River) and New Bedford, I am submitting this letter requesting your intervention and review of a series of unprecedented and scientifically indefensible regulatory decisions made by EPA Region 1 an attempt to impose extremely stringent nitrogen limitations on our facilities. These NPDES permit actions represent quintessential examples of decision making based on EPA policy rather than sound science and environmental need. If left in place, these new mandates will impose well over \$100 million in new wastewater and stormwater compliance costs for our cities. Given the new administration's desire to eliminate wasteful regulation, we are hoping to obtain your assistance in staying further permit appeal proceedings and objectively reviewing the scientific concerns we had raised previously, which were all disregarded by the prior administration. The following provides some brief background on the matter.

In 2015, EPA finalized a permit imposing "state of the art" nitrogen limitations on Taunton's wastewater treatment facility after a protracted dispute regarding the need for such limitations. EPA issued a similar permit for Brockton in January, 2017, and intends similar mandates for New Bedford and Fall River, but due to ongoing appeals has not finalized those actions. EPA Region I imposed the stringent nutrient limitations even though:

1. The Taunton Estuary is not identified as nutrient impaired;

2. Three nationally recognized experts (including Dr. Steven Chapra, Tufts University of international renown) stated that EPA's novel calculation procedure (known as the "Sentinel Method") was not scientifically defensible and would clearly give an erroneous result;
3. System data, collected by Dr. Brian Howes in 2004-2006, confirmed that the stringent nitrogen limitations would not materially improve dissolved oxygen levels (the stated concern of EPA's nutrient reduction mandate), and;
4. EPA's analysis ignored all of the other system improvements occurring since 2004 that EPA itself had mandated to improve water quality in the system (including the closure of major power plants, reduction of combined sewer overflows and nutrient discharges by major Rhode Island facilities).

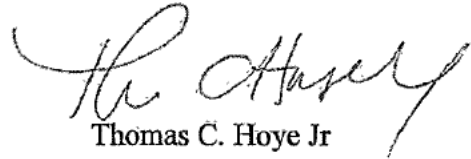
Individually, each of these errors should have warranted a remand of the permit. Even EPA Headquarters had confirmed, under FOIA, that the Region's novel procedure for claiming stringent nutrient limits were required was never peer reviewed or determined by anyone to be scientifically defensible. (Attachment 1) Nonetheless, EPA Headquarters refused a request from the *Center for Regulatory Reasonableness* to peer review the new method (in derogation of the federal Peer Review Handbook). (Attachment 2) EPA's Environmental Appeal Board (EAB) rejected all technical arguments and actively prevented consideration of the reports from independent experts confirming the Region's approach was technically baseless (See, Attachment 3, Letter of Dr. Brian Howes, Dartmouth- S Mast, who confirmed EPA was misapplying his data in reaching its conclusions). Left with little other choice, the City of Taunton appealed the EAB's decision to the First Circuit Court of Appeal (*see City of Taunton v. EPA*, (1st Cir. 16-2280)) and filed a permit modification request with EPA Region 1 to properly consider the information the EAB refused to assess in supporting EPA's permit action. Those actions are presently pending.

Requested Action

The cities believe that all permitting and appeal actions should be stayed, pending a complete scientific review of the Region's actions. An independent peer review of EPA's untested "Sentinel Method" should occur, as required by the federal Peer Review Policy, given the enormous local resources at stake. It is our belief that no group of credible scientists would possibly find this approach to be "scientifically defensible" which is why the prior administration refused to allow such review. In any event, should such review determine the Region's actions are, in fact, scientifically defensible and accurately reflect the impact of nitrogen on the DO regime of the Taunton Estuary, we would be willing to live with that result, knowing our monies will be well spent.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Th. Hoyer Jr.", written in dark ink.

Thomas C. Hoyer Jr

Mayor

Enclosures

cc. David Schnare, USEPA
Don Benton, USEPA
Mayor Correia, Fall River
Mayor Mitchell, New Bedford



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

December 24, 2014

Alexander J.E. English
Hall & Associates
1620 I St., NW
Washington, DC 20006-4033

OFFICE OF
WATER

RE: Freedom of Information Act Request EPA-HQ-2015-000462

Dear Mr. English:

This letter responds to your October 14, 2014, request under the Freedom of Information Act (FOIA) for documents pertaining to use of the "sentinel site method" in EPA Region 1. As explained below, the Agency does not have records that are responsive to your request.

1. ***"The public notice in the federal register regarding the agency's intended use of the Sentinel Site Method for the purposes of selecting nutrient criteria and/or meeting dissolved oxygen criteria in estuarine waters."***

Records in support of individual permitting decisions (e.g., the draft NPDES permit and fact sheets for the Taunton, Massachusetts wastewater treatment facility), are not published in the Federal Register; thus, there are no records responsive to this request.

2. ***"Any Science Advisory Board review of this method (as applied by EPA Region 1) finding it scientifically defensible."***

The Science Advisory Board (SAB) has not reviewed the permit administrative records for NPDES permits developed for facilities discharging to the Taunton River Estuary; thus, there are no records responsive to this request.

3. ***"Any documentation confirming that EPA has previously peer-reviewed the "sentinel approach" as proposed for use in Region 1."***

There are no records responsive to this request.

4. ***"Any correspondence sent from EPA HQ to the agency's Regional offices stating that the "sentinel approach" was scientifically defensible and an acceptable means for generating numeric nutrient criteria and/or establishing numeric nutrient limits under 40 CFR 122.44(d)."***

There are no records responsive to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah G. Nagle", is written over the word "Sincerely,".

Deborah G. Nagle, Director
Water Permits Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

1/22/2016

Christopher L. Risetto, General Counsel
Center for Regulatory Reasonableness
1620 I Street, N.W., Suite 701
Washington, DC 20006

OFFICE OF
WATER

RE: Renewed request for SAB Review

Dear Mr. Risetto:

I am writing in response to your December 1, 2015, letter to Environmental Protection Agency (EPA) Administrator Gina McCarthy and Science Advisory Board (SAB) Director Christopher Zarba, requesting peer review of EPA Region 1's method of deriving water quality-based effluent limitations in the Massachusetts Taunton River watershed.

In response to your similar request in an October 2, 2014, letter, we responded on January 16, 2015, informing you that we had decided against seeking peer review. Your December 2015 correspondence attached a letter from Dr. Brian Howes, a professor at the School for Marine Science and Technology at the University of Massachusetts/Dartmouth, that commented on Region 1's use of a particular "sentinel station" to develop nutrient targets for the Taunton River watershed. We do not see any information in Dr. Howes's letter that causes us to reconsider our response to your 2014 letter. We do not consider Region 1's permit-specific technical approach to constitute a new scientific methodology, nor is peer review of such approaches "required by federal law and guidance." Accordingly, we do not intend to seek peer review of the technical approach Region 1 used to develop permit limits in the Taunton River watershed.

We continue to support Region 1's use of the best available information to interpret the state's narrative water quality criteria for nutrients and apply it to develop appropriate numeric effluent limitations. The information contained in the permit fact sheet provides ample documentation that the regulatory "reasonable potential" test in 40 CFR 122.44(d)(1)(i) has been met (i.e., permit limits must be developed to control any pollutant that is or may be discharged at a level "which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including State narrative criteria for water quality"). Having determined that reasonable potential existed, the Region used an appropriate technical approach, documented in the administrative record, to develop numeric targets for the discharging facilities.

Additionally, the Taunton permit is currently under appeal to the Environmental Appeals Board (EAB). That forum, under the provisions of 40 CFR 124.19, is the appropriate place to resolve

your questions about the technical and administrative basis for the challenged Taunton River watershed permits.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joel Beauvais". The signature is fluid and cursive, with a large initial "J" and "B".

Joel Beauvais
Deputy Assistant Administrator

cc: Christopher Zarba, SAB
Curt Spalding, EPA Region 1



UMass

Dartmouth

School for Marine Science and Technology

706 South Rodney French Blvd., New Bedford, MA 02744

Office 508-999-8193 Fax 508-999-8197

May 1, 2015

VIA E-MAIL

Mr. Joe Federico
Beta Engineering Inc.
6 Blackstone Valley Place
Suite 101
Lincoln, RI 02865

RE: Use of Sentinel Site Approach Based on Massachusetts Estuary Project Data for Setting Nutrient Objectives for the Taunton Estuary

Dear Mr. Federico:

I understand that the City of Taunton and other communities tributary to Mount Hope Bay are interested in undertaking a detailed analysis of existing studies and system requirements with the objective of creating a scientifically defensible approach to setting nutrient reduction requirements for the Taunton Estuary and eventually, Mount Hope Bay (MHB). That action is to be applauded and is, in my opinion, long overdue. This letter responds to your recent inquiries regarding the sentinel site approach used by EPA in setting nutrient objectives for the Taunton Estuary based on data that I collected in 2004-2006 for that system that was to support a future Massachusetts Estuary Project (MEP) nitrogen threshold assessment.

The purpose of that data collection was to allow the MEP process to be initiated, to allow water quality model verification and to allow for an empirical evaluation of how nutrients are currently impacting various areas of the Mount Hope Bay-Taunton River system. However, as is clear from our report, additional studies and detailed consideration of the system hydrodynamics and the major factors affecting differing algal/DO responses and key habitats (eelgrass, benthic animals) are necessary *before* one could make these determinations and select a defensible "sentinel station" to represent the nutrient management target for the system. That has yet to occur.

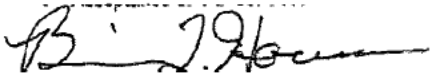
Regarding the selection of MHB16 as the "sentinel station" for the Taunton River estuarine reaches, the existing data and studies for the system would not support its use as a valid sentinel site, particularly as relates to the MEP program. First, the site does not appear to have any obvious relevance for predicting nutrient effects in the Taunton Estuary as it is far removed, has a large intervening basin (Mt. Hope Bay) with multiple inputs and differing structure, and is subject to far different stressors and physical constraints. Second, MHB16 was confirmed by other researchers to exhibit very different

hydrodynamic characteristics from the rest of the system, including Mount Hope Bay itself (See attached figures (Kincaid, 2006); see, also hydrodynamic analyses (Zhao, Chen & Cowles, 2006; Chen, Zhao, Cowles & Rothschild, 2008)). Also, this site in the Sakonnet River is not the dominant discharge channel from Mt. Hope Bay adding an additional confounding element. Consequently, the nutrient response at this site would not be representative of the expected response within the Taunton River estuarine reaches.

Thus, while, in my opinion, a sentinel station approach is valid for management of nutrient impacts, there are multiple factors that need to be taken into account before implementing this approach and selecting the location. Mount Hope Bay is a complex system with its own major inputs of which the Taunton River is but one (a big one certainly) as well exchanges with Narragansett Bay. Stratification is a major factor that broadly affects DO conditions throughout this system and that needs to be evaluated more thoroughly to understand the DO regime.

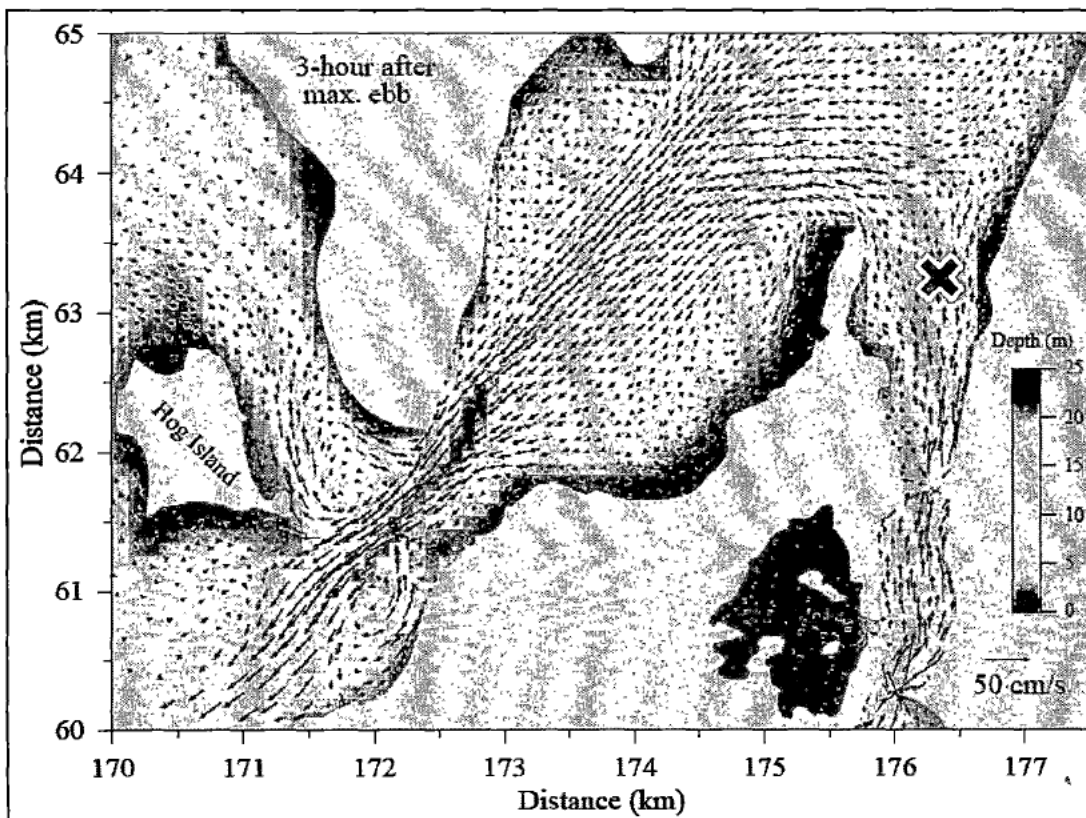
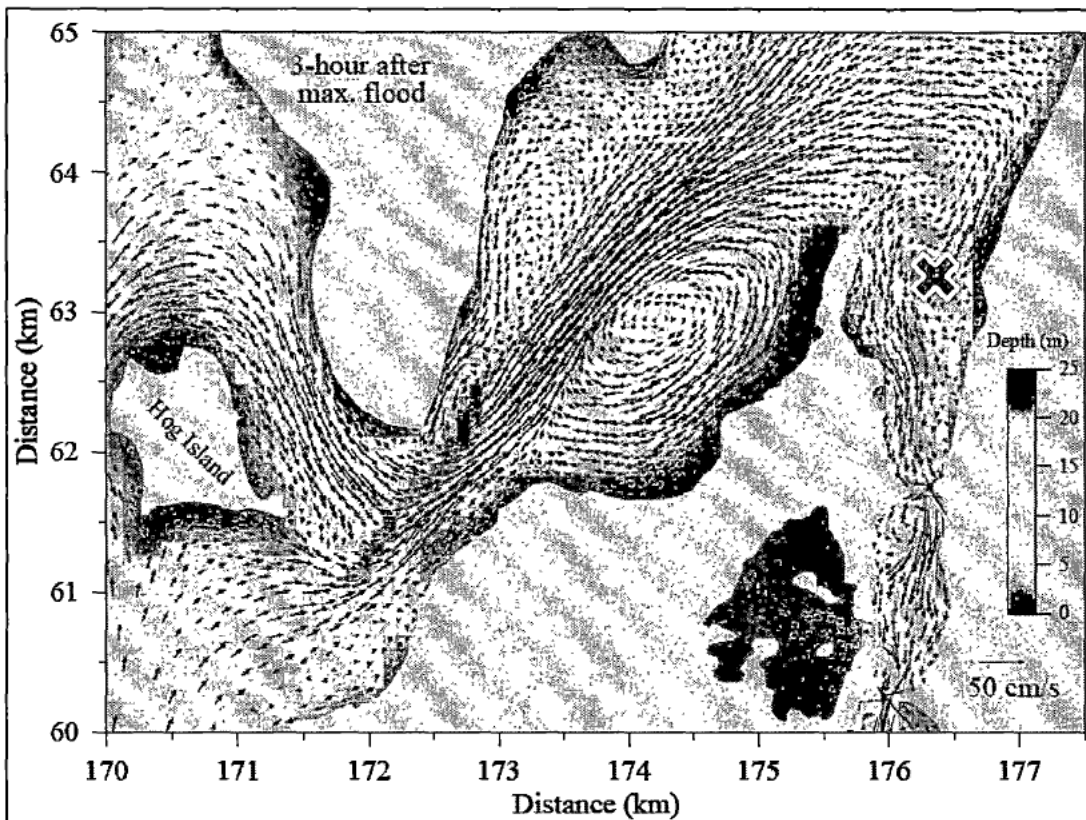
I hope that you may find these comments helpful. We look forward to helping Taunton, Brockton and other affected communities to resolve these complex issues. Let me know if I may be of any further assistance.

Sincerely,



Brian L. Howes, Ph.D.
Professor, SMAST-UMass Dartmouth
Technical Director Massachusetts Estuaries Project

Attachment



Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371
www.science.house.gov

February 22, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Pruitt:

The Committee on Science, Space, and Technology congratulates you on your confirmation as Administrator of the U.S. Environmental Protection Agency. As the Committee with primary jurisdiction over the science underpinning policy and regulatory decisions at EPA, we look forward to working with you to ensure that the agency's decision-making is based on sound and transparent science. In furthering this mandate, I would like to bring to your attention the rigorous oversight this Committee has conducted regarding the EPA's 2014 decision to preemptively use Section 404(c) of the Clean Water Act to limit the scope of the development of the Pebble Mine in Bristol Bay, Alaska before any permit applications were submitted for the project.¹ Based on this oversight, as well as President Trump's commitment to swift and lawful permitting decisions, the Committee urges you to rescind the 2014 decision and pursue the regular order of permitting for this and all projects that require permits under Section 404(c).

The Committee has determined that the preemptive action taken for the Pebble Mine Project was unprecedented under the Clean Water Act and was justified by a questionable scientific assessment that relied on predetermined conclusions developed by EPA officials.² In the course of Committee hearings, document reviews, interviews, and depositions, the Committee learned that EPA employees inappropriately assisted outside groups in petitioning the agency to change the way they operate and use Section 404(c) to stop this project.³ Furthermore,

¹ U.S. EPA, Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act Pebble Deposit Area, Southwest Alaska, July 2014, *available at* http://www2.epa.gov/sites/production/files/2014-07/documents/pebble_pd_071714_final.pdf.

² *Examining EPA's Predetermined Efforts to Block the Pebble Mine: Hearing Before the H. Comm. on Science, Space, and Technology*, 114th Cong. (2015); *Examining EPA's Predetermined Efforts to Block the Pebble Mine Part II: Hearing Before the H. Comm. on Science, Space, and Technology*, 114th Cong. (2016).

³ *Id.*

The Honorable Scott Pruitt
February 22, 2017
Page 2

the Committee determined that EPA officials charged with preparing the scientific assessment, which influenced the agency's final action, acted with bias and predetermined conclusions aimed to prevent this project and improperly expand EPA's authority under the Clean Water Act.⁴

Using Section 404(c) in this preemptive fashion is a de facto veto of this specific project and establishes a dangerous precedent of expansive federal agency powers that may be used in the future to prevent projects that would contribute positively to the American economy. The Committee recommends that the incoming Administration rescind the EPA's proposed determination to use Section 404(c) in a preemptive fashion for the Pebble Mine in Bristol Bay, Alaska. This simple action will allow a return to the long-established Clean Water Act permitting process and stop attempts by the EPA to improperly expand its authority. Moreover, it will create regulatory certainty for future development projects that will create jobs and contribute to the American economy. The Committee stands ready to provide you and your staff with any additional information you require on this matter to better inform your decision.

The Committee on Science, Space, and Technology has jurisdiction over environmental and scientific programs and "shall review and study on a continuing basis laws, programs, and Government activities" as set forth in House Rule X.

If you have any questions about this request, please contact Joseph Brazauskas or Richard Yamada of the Science, Space, and Technology Committee staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Lamar Smith". The signature is written in a cursive, flowing style.

Lamar Smith
Chairman

cc: The Honorable Eddie Bernice Johnson, Ranking Minority Member, House Committee on Science, Space and Technology

⁴ *Examining EPA's Predetermined Efforts to Block the Pebble Mine: Hearing Before the H. Comm. on Science, Space, and Technology*, 114th Cong. (2015); *Examining EPA's Predetermined Efforts to Block the Pebble Mine Part II: Hearing Before the H. Comm. on Science, Space, and Technology*, 114th Cong. (2016).

Congress of the United States
House of Representatives
Washington, DC 20515-3219

February 17, 2017

The Honorable Scott E. Pruitt
Administrator, Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Pruitt,

I would like to offer my congratulations on your confirmation as Administrator of the Environmental Protection Agency. Over the next several years, I look forward to working with you on many important issues, including one in the 19th Congressional District in New York that is currently under review by the EPA.

On September 9, 2016, the EPA proposed to add the Saint-Gobain Performance Plastics Site, 14 McCaffrey Street, Hoosick Falls ("McCaffrey Street site") to the Superfund National Priorities List (NPL). A year earlier, in November 2015, the EPA had advised the Village that Hoosick Falls municipal water should not be used for drinking and cooking and recommended that alternate water be provided for users of municipal water. The EPA's action came after water quality tests revealed that the municipal water contained perfluorooctanoic acid (PFOA) levels far in excess of recommended levels.

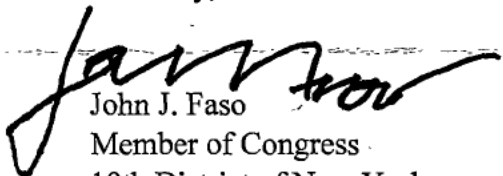
When the EPA advised the Village to stop using the water for drinking and cooking in 2015, water tests indicated that the municipal water contained PFOA levels above 600 parts per trillion (ppt). At that time, the EPA had established a provisional health advisory level for PFOA of 400 ppt for short-term exposure. In 2016, the EPA established a long-term exposure guideline for PFOA in drinking water of 70 ppt.

The Village of Hoosick Falls is a small community of 3,600 residents. When local residents raised concerns about water quality to their local officials, those officials took necessary steps to raise these concerns with appropriate state and federal officials. Unfortunately, officials were slow to appropriately address the Village's concerns. Only after the EPA made its recommendation in 2015 did the appropriate state and federal agencies begin to address the Village's needs.

It is my understanding that the McCaffrey Street site meets the necessary requirements to be designated on the NPL and that such designation could occur as soon as March 2017. The local residents support placing the McCaffrey Street site on the NPL and I write to offer my support for such a designation. Even after designation, however, it is imperative that state and federal agencies, including the EPA, work together with local officials and residents to ensure the contamination is remediated and that citizens' health and safety is protected.

Again, congratulations on your nomination and confirmation. I look forward to working with you on this issue as well as many others. Please do not hesitate to contact me if you believe I can be of assistance.

Sincerely,



John J. Faso
Member of Congress
19th District of New York

1000

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February 24, 2017

Hon. Scott Pruitt
Administrator-Nominee, Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt:

Congratulations on your recent confirmation as Administrator of the Environmental Protection Agency (EPA). In this new role, we, the undersigned, write to raise your awareness and convey our concern regarding the inclusion of the heavy duty trailer industry in the joint EPA – National Highway Traffic Safety Administration (NHTSA) October 25, 2016 Final Rule entitled, *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2* (GHGP2).

Our concerns contain two elements. First is the EPA's illegal extension of its legislative authority under the Clean Air Act by qualifying a trailer as a "new motor vehicle". Second, if the EPA can prove legislative authority does actually exist to uphold this classification, we hold grave concerns regarding the regrettable – and even tragic – consequences. For these reasons, we ask that you review the record and consider whether it would be appropriate to eliminate the heavy-duty trailer manufacturing industry from the rulemaking in order to correct the agency's legislative overreach.

Under the Clean Air Act (42 USC 7521(a)), Congress required the EPA to regulate "any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which ... may reasonably be anticipated to endanger public health or welfare." Under 42 USC 7550(b), motor vehicle "means any self-propelled vehicle designed for transporting persons or property on a street or highway." Indisputably, trailers are inert, cannot move under their own power, do not have an engine and do not generally produce emissions. Therefore, including truck trailers under the Clean Air Act's pollutant regulations is an abuse of the EPA's jurisdictional claim.

Through the SmartWay Program, a currently voluntary program to assist in the implementation of the GHGP2, the EPA sets forth trailer engineering standards to improve a truck operator's fuel economy in a heavy-duty tractor-trailer combination traveling at highway speed. Although data supports the gains from increased efficiency of these standards for tractor-trailers traveling at highway speed, data submitted to the EPA from a range of commenters reportedly demonstrates that the same benefits are not achieved when traveling at less-than-highway speeds. The American Trucking Association states that at least half of all tractor-trailer usage occurs not on highways but at lesser speeds around towns and cities. This means that at least half of tractor trailers will be required to make the engineering adjustments to comply with regulation but will not experience increased efficiency.

However, adding weight to trailers by altering their engineering to meet standards will displace cargo in order for the truck operator to remain in compliance with Gross Vehicle Weight laws on the roads. This will

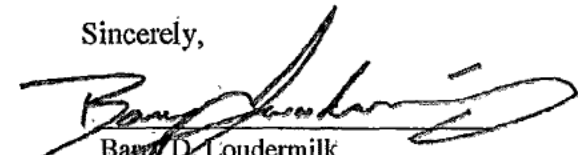
paradoxically require more tractor-trailers on the road just to maintain current freight transportation levels, which will clearly have the net effect of increasing greenhouse gas (GHG) rather than reducing it. Despite the trucking industry's admirable safety record, more tractor-trailers compiling more miles and facing more accident exposure will unnecessarily lead to more traffic fatalities. Toward this end, NHTSA states on pages 356 and 357 of the joint EPA-NHTSA rulemaking:

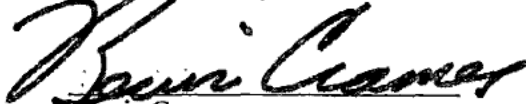
"According to FMCSA's 2014 annual report for 'Large Truck and Bus Crash Facts' indicates (sic) there are less than 1.67 fatalities per 100 million vehicle miles traveled (VMT) by combination trucks in the U.S. for 2014. When multiplied by an estimated 184 million additional truck miles due to weighed-out trucks, the result is an increase of about 3 fatalities, or 2.7 fatal crashes."

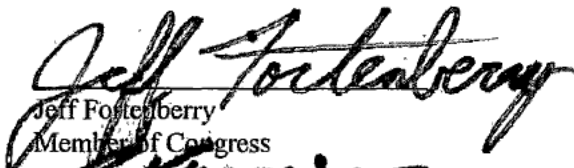
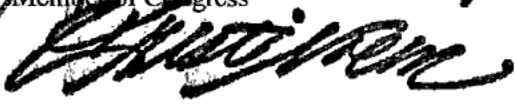
Trucking operators capable of benefitting under SmartWay already enjoy economic and competitive incentives. It would seem that those who cannot achieve improved efficiencies because they too frequently travel at lesser speeds have no reason to add costly add-ons to trailers that, additionally, will increase crash fatalities.

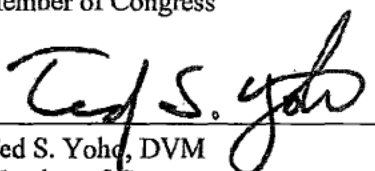
It is our belief and aim to bring to your attention that the EPA does not possess the Clean Air Act authority in this instance. Trailers do not self-propel or generate emissions, and trailer manufacturers do not construct motor vehicles. If they are treated as such and are required to meet the same requirements, costs will increase and GHG will worsen, rather than improve. Of greatest concern is that more people will unnecessarily die each year as a result of this ill-considered rule. The House of Representatives took action to prevent these tragic outcomes by including an EPA prohibition on spending to implement, enforce, et al. the rulemaking against trailer manufacturers within the House FY 2017 Interior, Environment and Related Agencies appropriations bill. Regardless, as Administrator of the EPA, we hope you will review this matter as quickly as possible and address the concerns we have raised. For more information, please do not hesitate to contact Aubrey Neal in Representative Barry Loudermilk's office at Aubrey.Neal@mail.house.gov.


Sincerely,



Barry D. Loudermilk
Member of Congress



Kevin Cramer
Member of Congress

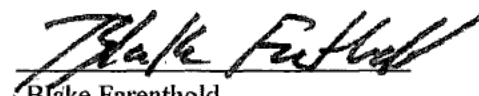

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February 24, 2017

The Honorable Scott Pruitt
Administrator, Environmental Protection Agency (EPA)
U.S. EPA Headquarters
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

On February 22, 2017, Science Committee Chairman Lamar Smith sent you a letter in which he urged you to rescind the EPA's 2014 decision to use Section 404(c) of the Clean Water Act (CWA) to limit the scope of the proposed development of the Pebble Mine in Bristol Bay, Alaska. I want to take this opportunity to provide you with a more complete picture, and draw your attention to information the Chairman left out of his letter, as well as to specific inaccuracies in the Chairman's letter that he has frequently repeated before our Committee. I hope that you will use the full resources of the EPA to review the factual history of the Agency's appropriate use of the 404(c) process and to assess the claims in the Chairman's letter in an objective and unbiased manner.

As you may know, Alaska's Bristol Bay watershed supports the world's largest sockeye salmon fishery in the world, employing an estimated 14,000 workers and generating annual revenues of nearly \$500 million. For more than a decade, the Pebble Limited Partnership (PLP) and its parent company Northern Dynasty Minerals, a Canadian-owned mining company, have been proposing to build one of the world's largest open pit copper and gold mines in the heart of the Bristol Bay watershed. Earlier this month, in a scathing economic analysis of the proposed mine, Kerrisdale Capital, a private investment firm, made public their analysis of the Pebble Mine, stating that the company planning to build the mine "is worthless" and "that the mine isn't commercially viable." It also pointed to the fact that "Major Investors Repeatedly Walked Away from Pebble – and Not Because of the EPA," and it said, "Alaska Doesn't Want the Pebble Mine."¹

Acting under the First Amendment rights of the U.S. Constitution, the EPA was petitioned by Native Alaskan Tribes and others, to utilize the 404(c) process to assess the potential impact of the proposed mine on the Bristol Bay region. One EPA employee in Alaska did act

¹ "Northern Dynasty Minerals Ltd. (NAK)," Kerrisdale Capital Management, LLC, February 2007, accessed here: <https://www.kerrisdalecap.com/wp-content/uploads/2017/02/Northern-Dynasty-Minerals-NAK.pdf>

inappropriately in his interactions with members of the public regarding the 404(c) process. The Science Committee deposed this individual and spent an inordinate amount of time attempting to tie this one individual to the entire EPA 404(c) process regarding the Pebble Mine. However, contradicting the Majority's repeated false conclusions about this issue, the EPA Office of Inspector General (OIG), "found no evidence of bias in how the EPA conducted its assessment of the Bristol Bay watershed, or that the EPA predetermined the assessment outcome."²

In January 2014, after an extensive, three-year long scientific peer-reviewed study, the EPA detailed the potential adverse impacts of the Pebble Mine on the environment, public health, and economic livelihood of residents and workers who rely upon the salmon fisheries in the Bristol Bay watershed. In July 2014, under the 404(c) process, the EPA took action to limit the inevitable environmental damage a mine in Bristol Bay would cause.

Those scientific reviews were sought by Alaska's citizens. They were conducted with technical rigor by the EPA's scientists. The in-depth scientific studies produced were transparent. These reviews were carried out with the same scientific integrity that both Democratic and Republican EPA Administrators utilized on 13 previous occasions since 1980 to initiate 404(c) actions under the EPA's clear authority under the Clean Water Act. To suggest that the EPA's action regarding the proposed Pebble Mine in Bristol Bay was "unprecedented," as the Chairman has repeatedly done is simply false.

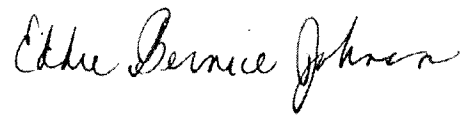
Under President Reagan's Administration, for instance, the EPA's 404(c) process was initiated a total of nine times, including once in a pre-emptive fashion prior to a mine permit application being filed. The Chairman, however, has also claimed that the EPA had no authority to initiate its 404(c) process prior to a mine permit application being filed. This is simply not true. These, and other, inaccuracies are clearly addressed in a detailed Minority Staff Report released during the Committee's last hearing on the Pebble Mine in April 2016.³ That report also highlights past ethical misconduct of some of Pebble's senior most leadership, including its CEO John Shively who once admitted to lying to Alaskan state prosecutors and destroying evidence to protect the then-Governor of Alaska.

I hope that as EPA Administrator you will adhere to the mission of the Agency that was created to protect the environment and the public's health, not the potential profits of foreign mining entities, such as Canada's Northern Dynasty Minerals and its proposed Pebble Mine. I hope that you believe putting America First also means protecting Americans first before the interests of foreign corporations. I appreciate your attention to this issue.

² "EPA's Bristol Bay Watershed Assessment: Obtainable Records Show EPA Followed Required Procedures Without Bias or Predetermination, but a Possible Misuse of Position Noted," EPA Office of Inspector General (OIG), Report #16-P-0082, January 13, 2016, accessed here: <https://www.epa.gov/office-inspector-general/report-epas-bristol-bay-watershed-assessment-obtainable-records-show-epa>

³ "The Pebble Promise in Bristol Bay," A Minority Staff Report, Prepared for Democratic Members of the Committee on Science, Space & Technology, April 2016, accessed here: <http://democrats.science.house.gov/sites/democrats.science.house.gov/files/Staff%20Report%20-The%20Pebble%20Promise%20in%20Bristol%20Bay.pdf>

Sincerely,

A handwritten signature in cursive script that reads "Eddie Bernice Johnson". The signature is written in black ink and is positioned below the word "Sincerely,".

Ms. Eddie Bernice Johnson
Ranking Member
Committee on Science, Space & Technology

